

II. REMARKS

1. The Examiner has improperly made this Office Action "Final". It is understood that the Examiner may reopen prosecution to enter a new ground of rejection. However, the issuance of a "Final" rejection is improper at this time. An Office Action containing a new ground of rejection may be made final if the new ground of rejection was:

(A) necessitated by amendment; or

(B) based on information presented in an information disclosure statement under 37 CFR §1.97(c) where no statement under 37 CFR §1.97(e) was filed.

(MPEP §1208.02)

The Applicant has not amended any of the claims during the prosecution of this application. Furthermore, Applicant has not filed any Information Disclosure Statements in this case. The references now cited by the Examiner, Misra et al. and Nakagawa et al., have not been previously cited by the Examiner. They are only now being cited, for the first time, as indicated in the Notice of References Cited, part of Paper No. 15.

Thus, since there have not been any amendments to the claims and Applicant has not filed an information disclosure statement, the requirements for making this Office Action "Final" have not been satisfied. The Examiner states, on page 2 of the Office Action, that "a new ground of rejection is set forth below." The Examiner has withdrawn the rejection over the prior reference Teng, and cites a new set of references. Therefore, this Office

Action is not properly final and the Examiner is requested to withdraw the finality.

2. It is respectfully submitted that the Abstract, as presently written, satisfies the legal requirements pertaining to the content of the Abstract. The Abstract as it is presently written is directed to the technical disclosure in the specification. The content of an abstract should be such as to enable the reader to ascertain "quickly" the character of the subject matter covered by the technical disclosure. The patent Abstract is a concise statement of the technical disclosure of the patent. (MPEP §608.01(b)). Applicant has fully complied with the legal requirements as set forth in 37 C.F.R. §1.72 and the rules in MPEP §608.01(b). Thus, no change should be required. If the Examiner disagrees, the Examiner should provide specific reasoning as why the Abstract lacks "technical disclosure gist." (MPEP §608.01(b)).

3. Claims 1-2, and 12-14 are not unpatentable over Misra et al. ("Misra") in view of Nakagawa et al. ("Nakagawa") under 35 U.S.C. §103(a).

Claim 1 recites a system manager for collecting attribute data from multiple platforms. This is not disclosed or suggested by Misra. In Applicant's invention the system manager "collect" the attribute data from "multiple platforms." In Misra a license or license pak is requested from the license generator by the client. (Col. 13, lines 13-14). The license generator 26 creates the license pak, which after processing, is delivered to the requesting license server 28. (Col. 13, lines 32-48). If the client is deemed authentic, the license server downloads a software license to the client. The licenses are tied to a

specific client through a client ID and cannot be activated on other clients. (Col. 11, line 65 to Col. 12, line 7).

Although Misra may allow for different clients to request licenses at different times, this is not the same as or similar to "collecting attribute data from multiple platforms." Rather in Misra, before providing a license, the invention of Misra only authenticates that particular, requesting client. (See e.g. Col. 4, lines 14-20, Col. 7, lines 1-11, Col. 10, lines 51-52).

Misra does not even remotely suggest collecting attribute data from multiple platforms. Misra deals only with a one-to-one connection and distribution of software licenses. Applicant's invention deals with the accumulation of information (copyright years) from multiple sources, and consolidating the information for presentation to a user. Applicant's invention is simply not the subject matter being taught by Misra.

Misra merely responds to individual client requests. It does not coordinate the activities of a number of independent platforms as is being claimed by Applicant. Misra does not gather data. It merely responds to a request for a license and provides the license.

Claim 1 also recites a user interface connected to the system manager for displaying the "collected attribute data" to a user. This feature of Applicant's invention is also not disclosed or suggested by Misra. It appears that the Examiner is abstracting the Misra patent to an extremely general concept in order to create an analogy with Applicant's invention. The Examiner generalizes "a UI connected to the system controller for displaying the software copyright data from multiple platforms" to "a user connected to a license server can access the license

store information". With such a level of abstraction, Misra's patent should be rejected since it is analogous to "a computer TTY connected to a mainframe computer can access the mainframe computer's information". This common mainframe architecture predates Misra by many, many years.

Nakagawa does not overcome the deficiencies of Misra noted above. Nakagawa's patent (and the lines referred to by the examiner) detail a configuration update scheme. In this scheme, a computer gets the latest version of a software package (with instructions) from a server. The computer sends its current configuration information to the server so it returns software only if there is a more recent version.

The Examiner is missing one of the key differences between Applicant's invention and the Misra and Nakagawa patents. Applicant's invention refers to multiple "N" software platforms that communicate to a central controller and the controller aggregates each platform's copyright information into a single system-wide copyright statement. It is a N->1 aggregation data model.

Misra and Nakagawa detail N instances of 1->1 data model. In both these patents, you have one (1) computer communicating to one (1) server to acquire data. There is no merging of one computer's data with another computer's data.

Thus, the combination of Misra and Nakagawa does not disclose or suggest each element of claims 1 and 12 as is required for a *prima facie* case of obviousness under 35 U.S.C. §103(a).

With regard to claims 2 and 13 these claims should be allowable at least in view of their dependencies. Furthermore, Misra does not disclose or suggest a memory for storing "attribute" data

"collected" by the system manager. Rather in Misra the "purchase request includes information pertaining to the licenses and license requestor." (Col. 6, lines 50-64). Additional information may be requested and each computer's license request can be stored in a database. However, this is not the same as Applicant's invention where the attribute data is collected across "multiple platforms." There is no such disclosure in either Misra or Nakagawa. Rather, Misra is merely obtaining data from a single requestor for a license. Misra is not reaching out across multiple platforms to collect information. Thus, claims 2 and 13 are also not disclosed or suggested by the combination of Misra and Nakagawa.

Claim 14 is also not unpatentable for similar reasons as stated above and at least in view of its dependency.

4. Claims 3-11 are not unpatentable over Misra, Nakagawa and Menezes et al. ("Menezes") under 35 U.S.C. §103(a). Claim 3 recites "polling at least two platforms for attribute data." Misra does not even mention polling or anything similar to polling. It refers to a request handler that waits for a request (the exact opposite of a polling concept) and an authenticating module that is awakened by the request handler.

It is not understood why the Examiner references Col. 16, lines 43-45. These lines refer to a "platform challenge" not being issued. In Misra, a platform challenge is when the license server asks (i.e. challenges) the requesting computer for identifying information to make sure the computer is authenticated for the license it is requesting. Again, these lines have nothing to do with the concept of multiple platforms being polled for copyright data except that the word "platform" appears. Misra is a point to point connection request. Misra

does not "poll" or collect information across multiple platforms as in Applicant's invention. Nakagawa does not disclose or suggest polling more than one platform or collecting information from more than one platform. Menezes merely discloses a single user polling another user to request a document. It does not specify N->1 polling or the aggregation of data as mentioned in Applicant's invention. Thus, none of the references, either alone or in combination, discloses or suggests each feature of Applicant's invention as required by 35 U.S.C. §103(a). Thus, claim 3, and the claims that depend therefrom should be allowable.

Claims 4 and 5 should be allowable at least in view of their dependencies. Furthermore, Misra does not mention any polling or aggregation of data. Thus, the subject matter of these claims is not disclosed.

Claims 6 and 7 should also be allowable in view of their dependencies. Furthermore, Misra merely refers to an instance of a 1->1 relationship where the license server sends a request to a license generator. There is no collecting of data from multiple platforms. Each license purchase request contains only data from the single user making the license request.

Claims 9, 10 and 11 should also be allowable in view of their dependencies. Furthermore, Misra, Col. 6, lines 15-17 refers to a video monitor while Col. 9 lines 1-61 refers to data that is stored in a license pack table. There is no mention or claim stating the automatic display of this data on the monitor.

Applicant respectfully submits that the Examiner has not met the requirements of obviousness required by 35 U.S.C. §103(a).

In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. There must also be a reasonable expectation of success, and the reference(s), when combined, must teach or suggest all of the claim limitations. (See M.P.E.P. §2142). As noted above, Misra, Nakagawa and Menezes do not disclose or suggest each feature of Applicants' invention as claimed with respect to each ground of rejection cited by the Examiner. Thus, a *prima facie* case of obviousness cannot be established.

Applicants also submit that there is no suggestion or motivation to modify the references as proposed by the Examiner. The Examiner's proposition that Applicants' invention would be obvious as recited in the claims is not supported by the factual contents of each of the cited references. The references themselves and/or the knowledge generally available to one of skill in the art does not provide the requisite motivation or suggestion to modify the references as proposed for purposes of 35 U.S.C. §103(a). If there is, the Examiner must specifically identify the teaching. When "the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference". In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). The Examiner is requested to provide an indication as to where any such teaching, suggestion or motivation appears in any of the references. Absent such a teaching, it is submitted that a *prima facie* case of obviousness over Misra, Nakagawa and Menezes under 35 U.S.C. §103(a) is not established.

Furthermore, the Applicant respectfully notes that the references have been combined improperly. References may be combined under 35 U.S.C. §103(a) only if the references are analogous art. In this case the references are not analogous art and not pertinent to the problem Applicant addresses. A reference is analogous art if:

- 1) The reference is in the same field of endeavor as the applicant's, or
- 2) The reference is reasonably pertinent to the particular problem with which the applicant was concerned.

None of the references are in the same field as the Applicants' invention. Misra deals with software licensing, on a one-to-one basis where a server provides a client, upon request and payment, with a license. Nakagawa deals with a configuration update scheme.

The computer gets the latest update and sends its current configuration to the server.

Menezes merely deals with exchanging information related to data processing capabilities between computers.

None of the references deal with collecting attribute data from multiple platforms as described and claimed by Applicant. Furthermore, none of the references deal with polling multiple ("N") platforms for attribute data.

Significantly, none of the references have anything to do with gathering and organizing copyright information data.

Any attempt to apply these references, or any combination thereof, against Applicant's invention, could only be with the

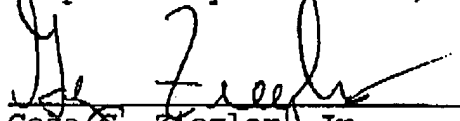
use of hindsight knowledge of Applicant's invention, which is impermissible.

Thus, the references do not address the problems addressed by Applicants' invention, are not in the same field of endeavor as the Applicants' endeavor and are not reasonably pertinent to the particular problem with which the Applicants were concerned. Thus, the cited references are not analogous art and may not properly be combined to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a).

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 24-0037.

Respectfully submitted,


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